

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

RUSSELL H. DAWSON, et al.,

Plaintiffs,

v.

SOUTH CORRECTIONAL ENTITY, et al.,

Defendants.

NO. 2:19-cv-01987-RSM

**STIPULATED MOTION TO AMEND
CASE CAPTION**

**NOTED ON MOTION CALENDAR:
JANUARY 4, 2022**

The parties by and through their respective counsel, bring this stipulated motion for an order to amend the case caption.

A. History of Previously Dismissed Defendants

1. Plaintiffs and the SCORE Defendants agreed to dismiss with prejudice all claims against SCORE Employee Defendants Brandon Heath; Pedro Santos; Ethan Glover, and Colminton Allen, and the Court granted the dismissal of these individual defendants on July 27, 2021. *Dkt. No. 157.*
2. Plaintiffs and the NaphCare Defendants agreed to dismiss with prejudice all claims against NaphCare Employee Defendants Jessica Lothrop and Virginia Richardson, and the Court granted the dismissal of these individual defendants on July 30, 2021. *Dkt. #159.*

STIPULATED MOTION TO AMEND CASE
CAPTION - 1
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3. The Court granted King County Defendants' Motion for Summary Judgment, dismissing all claims against King County and King County Sheriff's Office deputies Raul Adams, Leland Adams, and Alan Tag on September 8, 2021. Dkt. #192.
4. Plaintiffs and the SCORE Defendants agreed to dismiss with prejudice all claims against the remaining SCORE Employee Defendants Penny Bartley; Jim Kelly; Todd Barker; Brittney Palmore; Mandi Jaramillo; William Woo; Benda Scott a/k/a Brenda Scott; Christopher Foy; Jane Dore; and Aaron Seipp, and the Court granted the dismissal of these individual defendants on September 22, 2021. Dkt. #204.
5. The Court granted Defendant SCORE's Renewed Motion for Summary Judgment and dismissed with prejudice all claims against SCORE on October 19, 2021. Dkt. #209.

B. History of Plaintiffs' Claims

Russell Dawson, in his capacity as personal representative of the Estate, and Damaris's surviving family members initially brought claims. Some of these claims were dismissed by the Court's Order Granting in Part and Denying in Part NaphCare Defendants' Motion for Summary Judgment on September 17, 2021 Dkt. 197. The only remaining claims are state law tort claims and §1983 claims for violations of the decedent's 14th Amendment rights.

Under RCW Ch. 4.20, the Personal Representative of the Estate has the authority and duty to bring the claims on behalf of the individual beneficiaries. State survival statutes will control the survival of § 1983 claims so long as the statutes are not "inhospitable to survival of § 1983 actions ... [and] ha[ve] no adverse effect on the policies underlying § 1983." *Robertson v. Wegmann*, 436 U.S. 584, 594, 98 S.Ct. 1991, 56 L.Ed.2d 554 (1978). Under Washington's general survival statute, "[a]ll causes of action by a person or persons against another person or persons shall survive to the personal representatives of the former and against the personal

representatives of the latter.” RCW 4.20.046. Therefore, inclusion of the decedent’s beneficiaries in the caption is unnecessary for the Personal Representative to bring/maintain these tort and constitutional claims for damages on behalf of the Estate and beneficiaries, and the parties agree that all remaining claims may be property brought/maintained by Russell Dawson, in his capacity as person representative of the Estate.

C. Proposed Changes to Case Caption

The parties propose that the case caption should be amended to *RUSSELL H. DAWSON, Personal Representative of the Estate of Damaris Rodriguez v. NAPHCARE, INC., an Alabama Corporation; REBECCA VILLACORTA; HENRY TAMBE; NANCY WHITNEY; BILLIE STOCKTON; BRITTANY MARTIN; BROOKE WALLACE; SALLY MUKWANA; JOAN KOSANKE; RITA WHITMAN*, to reflect only the remaining defendants in this matter.

D. Conclusion

Accordingly, to accurately reflect the current status of this case, the parties agree that the caption should be amended. The parties agree that such amendment does not constitute a pleading to which an answer is required or allowed.

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1 Stipulated this 4th day of January, 2022.

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